

BOARD OF APPEALS CASE NO. 5205

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BEFORE THE

APPLICANT: James P. Medley, Sr.

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ZONING HEARING EXAMINER

**REQUEST: Variance to replace a nonconforming
mobile home; 519 Stans Road, Joppa**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 12/26/01 & 1/2/02

HEARING DATE: February 20, 2002

Record: 12/28/01 & 1/4/02

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ZONING HEARING EXAMINER'S DECISION

The Applicant, James P. Medley, Sr., is requesting a variance, pursuant to Section 267-20B(2) of the Harford County Code, to allow replacement of a mobile home with a larger mobile home which exceeds 50 percent of the gross square footage of the mobile home in use at the time of the creation of the nonconformity; and a variance pursuant to Section 267-20A(3), to allow one nonconforming mobile home to be substituted with another nonconforming mobile home in an R1 District.

The subject parcel is located at 519-A Stans Road, Joppa Maryland 21085, in the First Election District, and is more particularly identified on Tax Map 65, Grid Number 1A, Parcel 695, Lot 3A in the subdivision of Stans Farms. The parcel contains 1.93 acres more or less.

The Applicant's son, James R. Medley, appeared and testified that his father, is the owner of the subject property. Mr. Medley described the property as a very nice corner lot, located at the intersection of Stans Road and Dugan Drive. He introduced a record plat (Applicant's Exhibit No. 1) which designates the property as Lot 3A. The plat shows that the property is subject to a 40 foot front yard setback from Stans Road, and another 40 foot front yard setback from Dugan Drive.

Mr. Medley testified that his father's property is presently improved by a mobile home measuring 16 foot by 80 foot in diameter. The home is occupied by Mr. Medley's son, and his mother. The witness stated that to the best of his knowledge there has been a mobile home located on the property since the 1950's.

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When reviewing the Department Planning and Zoning's Staff Report, he learned that there was a 51 foot by 10 foot mobile home on the property in the early 1950's. A replacement mobile home was placed on the property sometime in 1971, pursuant to Permit No. 2345-71. According to the witness, the property contained a 12 foot by 60 foot mobile home when it was purchased by the Applicant in 1990. That unit was removed by the Applicant in June of 1990, and replaced with a larger mobile home measuring 14 foot by 70 foot in diameter. No permit was required for the replacement unit, because it did not exceed fifty percent of the square footage of the previous mobile home. On April 20, 2001, the replacement mobile home burned to the ground. The burned out unit was subsequently removed by the Applicant, and replaced with the existing 16 foot by 80 foot mobile home.

Mr. Medley testified that the existing mobile home is an improvement to the community. It is compatible with other property in the neighborhood, and blends well with other homes in the area. The new unit is the largest mobile home in the community, and looks much better than its predecessor. He then testified that the property is currently zoned R1, and that the minimum lot size in an R1 District is 20,000 square feet. The subject parcel contains almost two acres.

Finally, the witness stated that he is familiar with the Department of Planning and Zoning Staff Report, and that he has no additions or corrections to that report. The Staff Report was introduced into evidence as Applicant's Exhibit 2.

Mr. Anthony McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning, appeared and testified regarding the findings of fact, and recommendations made by that agency. According to the witness, the Department found that there was a mobile home on the property when it was originally zoned AG. The zoning was changed from AG to R1 in 1982, and the existing mobile home became a nonconforming use.

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Mr. McClune testified that the Department of Planning and Zoning recommended approval of the subject request in its February 15, 2002 Staff Report, subject to the Applicant obtaining all necessary permits and inspections. The witness also testified that in his opinion the granting of the requested variance will not have any adverse impact on neighboring properties. There are other mobile homes in the neighborhood, and the new mobile home is more compatible with other properties in the community than the older, smaller unit.

No witnesses appeared in opposition to the requested variance.

CONCLUSION:

The Applicant, James P. Medley, Sr., is requesting a variance, pursuant to Section 267-20B(2) of the Harford County Code, to allow replacement of a mobile home with a larger mobile home which exceeds 50 percent of the gross square footage of the mobile home in use at the time of the creation of the nonconformity; and a variance pursuant to Section 267-20A(3), to allow one nonconforming mobile home to be substituted with another nonconforming mobile home in an R1 District.

Section 267-20B(2) of the Harford County Code reads as follows:

“A mobile home located in a Residential District may be replaced with one of a larger size, provided that the enlargement does not exceed fifty percent (50%) of the gross square footage of the mobile home in use at the time of the creation of the nonconformity.”

Section 267- 20A(3) of the Harford County Code reads:

“When authorized by the Board, one nonconforming use may be substituted for another nonconforming use.”

Harford County Code Section 267-11 permits the granting of variances, stating that:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.

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- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

The Maryland Court of Special Appeals set forth a two prong test for determining whether a variance should be granted in case of Cromwell v. Ward, 102 Md. App. 691, (1995). This two prong test can be summarized as follows. First, there must be a determination as to whether there is anything unique about the property for which the variance is being requested.

The lot is unique if there is a finding that a peculiar characteristic or unusual circumstance relating only to the subject property, causes the zoning ordinance to impact more severely on that property than on surrounding properties. Cromwell, supra and 721. If the subject property is found to be unique, the hearing examiner may proceed to the second prong of the test. The second prong requires a determination as to whether literal enforcement of the zoning ordinance, with regard to the unique property, would result in practical difficulty or unreasonable hardship to the property owner.

The Hearing Examiner finds that the subject property is unique, and that the first prong of the Cromwell test has been met. The property is a corner lot, and hence subject to two front yard setbacks. In addition, as stated by the Department of Planning and Zoning “when the original mobile home was placed on the lot, the property was zoned AG/Agricultural, which allows mobile homes and their replacements, subject to meeting setbacks and obtaining proper permits. The subject property and the immediate surrounding area was rezoned from Agricultural Zoning to R1/Urban Residential District during the 1982 comprehensive zoning review. Since the R1 District does not permit mobile homes, the mobile home existing at the time. became a nonconforming use, limiting the replacement size of the mobile home.

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It must next be determined whether denial of the requested variance would create an unreasonable hardship or practical difficulty for the Applicants. The Hearing Examiner finds that such a denial would result in both practical difficulty and unreasonable hardship for the Applicants in this case. The original mobile home located on the property was a 1950's style unit, which was only 10 feet wide by 50 feet long. When the Applicant purchased the property in 1990, it was improved by a 12 foot by 60 foot unit, which had been placed on the lot in 1971 pursuant to a valid permit. After the Applicant purchased the property, he replaced the 12 foot by 60 foot mobile home with a newer larger model. No permit was required because the replacement unit did not exceed fifty percent of the square footage of the original mobile home. On April 20, 2001, the replacement mobile home burned to the ground. The burned out mobile home was subsequently removed by the Applicant, and replaced with the existing 16 foot by 80 foot unit. The denial of the variance for this replacement mobile home would cause hardship to the Applicant, by forcing him to remove the new mobile home and replace it with one that is smaller and less modern.

Lastly, the Hearing Examiner finds that the granting of the requested variance will not have an adverse impact on, or be substantially detrimental to adjacent properties, nor will it materially impair the purpose of the Code or the public interest. There are other mobile homes in that area of the County. The existing mobile home is compatible with other property in the neighborhood, and blends well with other homes in the community.

The Hearing Examiner recommends approval of the requested variance, subject to the Applicant obtaining all necessary permits and inspections for the existing mobile home.

Date: MARCH 7, 2002

**Rebecca A. Bryant
Zoning Hearing Examiner**